

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

RENARD TRUMAN POLK,

Plaintiff,

v.

STATE OF NEVADA, et al.,,

Defendants.

Case No. 3:12-cv-00433-MMD-WGC

ORDER

On December 3, 2012, this Court dismissed the action for failure to state a claim upon which relief may be granted. On October 8, 2015, plaintiff filed a motion for reconsideration, relief from judgment, and/or to alter or amend the judgment (dkt. no. 24). Plaintiff cites Rules 59(a) and 60 of the Federal Rules of Civil Procedure.

The motion is untimely. The motion cannot be considered under Rule 59 because “[a] motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.” Fed. R. Civ. P. 59(e). Petitioner does not state explicitly what part of Rule 60 is the basis for his motion, but in the body of the motion he makes four arguments why the Court erred in dismissing the action. Rule 60(b)(1), allowing relief from the judgment because of “mistake, inadvertence, surprise, or excusable neglect,” would be the appropriate section. However, plaintiff needed to file a motion under rule 60(b)(1) within one year of entry of the judgment, and he filed the motion more than two years after entry of the judgment. See Fed. R. Civ. P. 60(c)(1). The motion is late, and the Court will not consider it.

1 It is therefore ordered that plaintiff's motion for reconsideration, relief from
2 judgment, and/or to alter or amend the judgment (dkt. no. 24) is denied.

3 DATED THIS 1st day of April 2016.

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6 MIRANDA M. DU
7 UNITED STATES DISTRICT JUDGE
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